



City of Seattle

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Gregory J. Nickels, Mayor  
**Department of Planning and Development**  
D. M. Sugimura, Director

**CITY OF SEATTLE  
ANALYSIS AND DECISION OF THE DIRECTOR  
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

**Application Numbers:** 2304856 and 2304852 (Short Subdivision)  
**Applicant Name:** Randall Spaan.  
**Address of Proposals:** 2425 E Union Street

**SUMMARY OF PROPOSED ACTION**

Master Use Permit to establish use for a four-story commercial and residential building containing five street-level retail sales and service spaces totaling in the aggregate 2,764 square feet, with three stories of apartments for a total of five units above. Underground parking, accessory to the residential uses, for 5 vehicles will be provided on site.

Master Use Permit to subdivide two parcels into five parcels of land. The proposed parcel sizes are: A) 671.1 sq. ft., B) 634.8 sq. ft., C) 800.3 sq. ft., D) 1,065 sq. ft.; and E) 1,069.1 sq. ft.

The following approvals are required:

**Design Review** - Chapter 23.41 Seattle Municipal Code (SMC)

**Short Subdivision** – to create five parcels of land.  
Chapter 23.24 Seattle Municipal Code (SMC)

**SEPA – Environmental Determination**  
Chapter 25.05, Seattle Municipal Code (SMC)

**SEPA DETERMINATION:** ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or another agency with jurisdiction.

**BACKGROUND DATA**

The proposal site is located on the southwest corner of E Union Street and 25<sup>th</sup> Avenue. The site is comprised of two vacant lots totaling approximately 4,240 square feet, with 53 feet of frontage along E. Union Street and extending approximately 80 feet south of E. Union St along 25<sup>th</sup> Avenue. The proposal site is zoned Neighborhood Commercial 2 with a 40-foot height limit (NC2-40). A Pedestrian 2 overlay also extends along the E. Union Street frontage. The site is included within the Central Area Residential Urban Village.

The lots immediately adjacent to the proposal site, to the east and to the south are likewise zoned NC2-40. Properties immediately across 25<sup>th</sup> Avenue are zoned Lowrise 1. Beginning at the line formed by the northern property line of the lot two lots to the south of the site and continuing south on both sides of 25<sup>th</sup> Avenue the zoning is Single Family (SF 5000). There is a large big-leaf maple (*Acer macrophyllum*) located within the public right-of-way just east of the east property line. Established street trees, autumn blaze maples (*Acer freemanii* 'jefferson red') and Red Oak (*Quercus rubra*), occupy the abutting right-of-way along E. Olive St. and 25<sup>th</sup> Avenue, respectively.

## **AREA DEVELOPMENT**

The proposal is situated at the eastern edge of a cruciform-shaped area of Neighborhood Commercial (NC2-30 and NC2-40) zoning that runs along the spine of E. Union Street between 21<sup>st</sup> Avenue and 25<sup>th</sup> Avenue. There are several buildings containing retail and commercial services along this section of E. Union Street. Immediately to the east, across 25<sup>th</sup> Avenue, the zoning on either side of E. Union Street for a depth of one, two, and three lots becomes Lowrise multifamily (L1). Moving away from E. Union Street, both to the north and to the south, the predominating zoning is Single Family (SF 5000).

### **Proposal**

The proposal for the site consists of a four-story mixed-use building, containing ground floor retail sales and service commercial space and three stories of residential units above. The proposed structure would contain 5 commercial spaces with residential apartments directly above and internally connected to each ground-floor commercial space. Five parking spaces for the residential uses would be provided below grade. Access to and from the underground parking is proposed off 25<sup>th</sup> Avenue. The development site would also be subdivided (through MUP 2304852) into five separate lots, each lot containing the individual commercial space at ground level and a corresponding residential space of 3 stories directly above. Parking for each residential structure would be on the individual lot containing the retail commercial space and residential unit.

### **Public Comments**

Public comment was invited at initial application for the subdivision and again at the time of the notice for the proposed establishment of use and proposed construction. It was also solicited at four design review public meetings. Comments from the Design Review meetings are noted within the Design Review process summaries which follow. No comments were received during the formal comment period for the proposed subdivision (MUP 2304852). Five comment letters were received during the comment period following notice of the proposed establishment of use and construction (MUP 2304856) which ended on May 5, 2004. Other written comments were received during the course of the Design Review process. The comments received at the various times were generally focused on the

following issues: the projects “fit” with the neighborhood; traffic impacts along 25<sup>th</sup> Avenue; parking impacts; access to the site from 25<sup>th</sup> Avenue; and the desirability of preserving the large maple tree on the otherwise vacant site. Comments are noted below as apposite the analysis.

### **ANALYSIS - DESIGN REVIEW**

An Early Design Guidance Meeting, attended by three of the Design Review Board members for Area 7 (Capitol Hill), was held at Miller Community Center on September 3, 2003. At that meeting, the applicant presented preliminary conceptual plans for a four-story structure with five individualized, retail commercial spaces on the ground floor and five apartments above. Underground parking for 5 vehicles was to be located below ground.

The applicant presented three conceptual massing schemes to provide for five “live-over-work” units on site. The residential portion of each unit would be directly above a ground-level commercial space. Three of the units would front on E. Union St., two on 25<sup>th</sup> Avenue. Five parking spaces, one for each of the residential units, would be provided in underground parking beneath each unit. Access to the parking would be from a curb cut proposed about mid-lot depth off 25<sup>th</sup> Avenue.

The applicant explained that a separate platting action had also been proposed to DPD. The development site would be subdivided into five separate lots (see below, under Analysis-Short Subdivision), each containing the individual commercial space at ground level and the live-over-work residential space above. Parking for the residential unit would be on the individual lot. Each unit would qualify as a mixed-use structure (commercial + residential) and would qualify for individual, fee-simple ownership. This subdivision does not create unit lots.

### **Public Comments:**

Seventeen members of the public signed the sign-in-sheet at the Board meeting. Public comments presented to the Department and to the Board at the meeting included the following observations:

- The project should preserve the big-leaf maple
- Union is the commercial street, 25<sup>th</sup> is a “very residential” street and the project should reflect this in design, massing
- 25<sup>th</sup> is already congested and project should look at access off E. Union
- The exterior of the building should not be stucco
- Differentiate the character of the building as it turns onto 25<sup>th</sup>
- Open space in courtyard should be perceived by pedestrians on sidewalk
- Design should look to *future* commercial character on Union
- Too many units on a very small lot

### **Priorities:**

After addressing their own clarifying questions to the applicant and hearing public comment on the proposal the Design Review Board members present provided the siting and design guidance described below. They identified by letter and number those siting and design guidelines found in the City of

Seattle's *Design Review: Guidelines for Multifamily and Commercial Building* considered to be of the highest priority for this project. The recommendations made were agreed to by all three of the Board members present, unless otherwise noted.

#### A-2 Streetscape Compatibility

The siting of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the right-of-way.

**The Board agreed that the proposed structure should respond to E. Union Street and to 25<sup>th</sup> Avenue in different ways. In particular the Board indicated that the overall structure and the individual live-over-work units facing 25<sup>th</sup> Avenue should respond to the predominantly residential character (and zoning) of that street. While it was appropriate for the façade along E. Olive to reinforce the commercial nature of the street by presenting a strong, more homogeneous façade, the units along 25<sup>th</sup> Avenue, the Board suggested, should emphasize transitional spaces. In providing for these transitional spaces, the Board indicated that the design development should explore including such elements as stoops and porches, individualized entries and increased setbacks. Most importantly, the Board indicated that the “residential character” desired for the façade along 25<sup>th</sup> Avenue should best be achieved by varying and reducing the massing of the units which face 25<sup>th</sup> Avenue. In addition, the Board wanted the design development to explore how the interior courtyard-open space area might be more strongly connected, visually or actually, to 25<sup>th</sup> Avenue.**

#### A-6 Transition Between Residence and Street

For residential projects, the space between the building and the sidewalk should provide security and privacy for residents and encourage social interaction along residents and neighbors.

**In response to neighbors' concerns raised in the public comment period that the recessed entries along E. Olive Street might provide undesirable hiding spaces and compromise security, the Board agreed that design development should balance the need for security with an aesthetic openness to the street. If the entrances need to be gated in some manner, the Board agreed that such gating should be designed in such a manner as not to create an impression of a fortress. The structure should maintain a congenial urban presence to the street.**

#### A-7 Residential Open Space

Residential projects should be sited to maximize opportunities for creating usable, attractive, well-integrated open space.

**The Board's guidance was that for the next meeting of the Board the design and treatment of the proposed open space should contain a level of detail that would include landscaping, paving materials, furnishings, lighting, signage, etc. The design of the residential open space should maximize the prospects of both air and light.**

#### A-8 Parking and Vehicle Access

Siting should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.

**The Board acknowledged suggestions made during the public comment period that vehicular access to the site is off E. Olive St. The Board asked the applicant to consider and explore access off E. Olive. In their discussion, however, the Board did acknowledge that considerations of the length of the street frontage along E. Olive St., the size and topographical constraints of the lot in providing for underground parking that must be located on each lot per demands of the accompanying platting action might limit the range of practicable choices for access to the site.**

**[Subsequently, the Seattle Department of Transportation (SDOT) recommended that access to the residential parking should be from 25<sup>th</sup> Avenue.]**

**The Board's guidance was that access should be designed so as to provide for pedestrian safety. [SDOT would like that portion of the access in the public realm on 25<sup>th</sup> Avenue to be located and designed in order to preserve in place, if possible, the red oak in the adjacent right-of-way.]**

#### A-10 Corner Lots

Buildings on corner lots should be oriented to the corner and public street fronts. Parking and automobile access should be located away from corners.

**The Board cited this guideline in affirming their guidance that the proposed structure should present a distinction in approaches, to E. Union as a commercial street, and to 25<sup>th</sup> Avenue as a residential street. (See the discussion under A-2 above.) The Board noted that the site was "not screaming for a corner entry."**

#### B-1 Height, Bulk and Scale

Projects should be compatible with the scale of development anticipated by the applicable Land Use Policies for the surrounding area and should be sited and designed to provide a sensitive transition to near-by, less-intensive zones. Projects on zone edges should be developed in a manner that creates a step in perceived height, bulk and scale between the anticipated potential of the adjacent zones.

**The Board identified this as an issue of highest priority. The Board reiterated its general concern, expressed under priorities above, that the massing of the proposed structure should provide a strong presence along E. Union Street. The Board indicated they wanted to see a development in design that pulled some of the massing of the two units facing 25<sup>th</sup> Avenue away from that street both at street level and above street level.**

#### C-1 Architectural context

New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

**The Board cited this guideline of highest priority as it related to the discussion above. The design of the structure should provide evidence in details and massing of responding to two differentiated street contexts, one commercial, and the other urban-residential.**

#### C-2 Architectural Concept and Consistency

Building design elements, details and massing should create a well-proportioned and unified building form and exhibit an overall architectural concept.

**The Board asked that the designer should present a clear architectural *parti*, or basic scheme and concept represented by a diagram, at the next presentation to the Board. The applicant should be able to present the *parti* or diagram and explain and clarify the relations of the parts to the whole for the design of the proposed structure.**

#### C-3 Human Scale

The design of new buildings should incorporate architectural features, elements and details to achieve a good human scale.

**The Board agreed that design of the structure should incorporate, especially for the various entries, elements which would step down the scale of the four-story structure. Above the first floor level, the design should incorporate such elements as balconies which should be designed both to provide enjoyable spaces for the inhabitants and to achieve a good human scale.**

#### D-1 Pedestrian Open Spaces and Entrances

Convenient and attractive access to the building's entry should be provided. To ensure comfort and security, paths and entry areas should be sufficiently lighted and entry areas should be protected from the weather. Opportunities for creative lively, pedestrian-oriented open space should be considered.

**The Board considered this guideline to be among the highest of priorities and indicated that the entries should be clearly urban in character and provide for a level of transparency. Since the ground floor spaces are commercial spaces, their entries should be designed to engage pedestrians on the street; they should invite people to look in. These entries should be more than just doors off the street.**

#### D-6 Screening of Dumpsters, Utilities and Service Areas

Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front where possible. When elements such as dumpsters, utility meters,

mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located in the pedestrian right-of-way.

**The Board agreed that these spaces should be regarded as amenities and not just as impositions or left-over spaces. These spaces and the details of their design should evidence a care for both the practical and sensory needs of inhabitants as well as the sensibilities of the public and regard for the public realm.**

#### E-1 Landscaping to Reinforce Design Continuity with Adjacent Sites

Where possible, and where there is not another overriding concern, landscaping should reinforce the character of the neighboring properties and abutting streetscape.

**The Board agreed that this guideline should be regarded as of highest priority in conjunction with Guideline E-2. Part of the Board's discussion centered on concerns articulated during the public comment portion of the meeting that the large big-leaf maple be retained on site. Because of the size of the tree, its location on the site and the requirements for providing a zone of non-disturbance to insure its continued health, the Board generally agreed with the applicant that preservation of the tree and development on the site were incompatible.**

**The Board agreed that the applicant should provide landscaping elements within the open spaces included on site that genuinely enhanced the quality of their use and provide such landscaping at the edges of the site, especially along 25<sup>th</sup> Avenue, and within the public right-of-way so as to link the project and the streetscape and generally to enhance the adjoining public realm.**

#### E-2 Landscaping to Enhance the Building and/or Site

Landscaping, including living plant material, special pavements, trellises, screen walls, planters, site furniture and similar features should be appropriately incorporated into the design to enhance the project.

**The Board agreed that for the next Board meeting for this project the applicant should provided a landscaping plan, one that includes the entire development site and adjacent right-of-ways. The plan should include details for landscaping enhancement of the adjacent sidewalks and anywhere where there is street-level open space provided. The plan should include a lighting plan that at once provides on-site security and serves as a design amenity. This Landscape Architectural presentation should also include landscaping elements which are a part of any proposed residential open space.**

#### **Development Standard Departures:**

The applicant has not at this stage of the Design Review process requested specific departures from development standards within the Land Use Code but has indicated that design departures may be requested as the design undergoes further development. The Board indicated it would entertain the

granting of development standard departures provided the final design successfully incorporates the design guidelines enumerated above. The Board asks that the exact and fully quantified elements of any proposed departures should be presented at the next meeting of the Board and detailed within a Design Departure matrix.

### **DESIGN REVIEW RECOMMENDATIONS:**

Subsequently, a Design Review Board Recommendation Meeting for this project was held at Seattle Central Community College on Wednesday, June 16, 2004 and attended by all five members of the Board. The applicant presented plans for a four-story mixed-use building, containing ground floor commercial space and three stories of residential units, described as “live-above-work” units, above. The proposed structure would contain 5 commercial spaces and five residential apartments. Five parking spaces, one for each of the residential units would be provided below grade.

### **Applicant’s Presentation of Design Development :**

The applicant addressed what he considered to be the salient issues regarding the Guidelines and guidance offered by the Board at the earlier meeting. He explained that he had explored taking access off E. Union Street, but that option proved to be not viable. He explained that any effort to retain the big-leaf maple on site would preclude any development on site, and that trees would be planted as part of the landscape plan which, at maturity, would equal the canopy of the existing tree to be removed. He then focused on the unit at the southeast corner of the site and showed how, in response to the earlier guidance, that unit had been set back, had reduced its height at the property line and generally had attained a more residential character.

Other elements of the applicant’s presentation centered on a variety of elements:

- how the alterations to the southeast unit allowed for a small inner court along the south property line and allowed for a better relationship to the property south of the proposed development
- how the design development allowed for an ample and convenient siting of common trash and recyclable materials storage
- a verbal presentation of a materials palette which contained brick or spilt-faced CMU at the commercial level, a standing-seam sheet metal roof, and colored metal on upper exterior walls with a hidden fastener application

### **Public Comments:**

Five members of the public signed the sign-in-sheet at the Board meeting. Public comments presented to the Department and to the Board at the meeting included the following design-based observations:

- The open space seemed too little for the project
- Window sills would add character to the structure and tie in the residential level with the residences in the area
- Landscaping should be used to soften the development edge along 25<sup>th</sup> Avenue
- There were still too many units on a very small lot

## **BOARD DELIBERATIONS**

### **General Directives**



After further clarifying questions and after hearing public comment on the project, the five members of the Board present agreed that there were a number of concerns and reservations regarding the project which still needed addressing. The Board expressed appreciation for the live-above-work concept, but asked the applicant to address some specific concerns and to provide materials that would demonstrate more convincingly that certain design choices were in keeping with the Early Design Guidelines that the Board had indicated were to be of highest priority in design development. The Board requested that the applicant return for another Recommendation Meeting and provide further design development to address the following concerns:

- The volume, separation between elements, scale, proportions and general character of the interior open space, and its ability to achieve utility while conveying delight to the inhabitants needs further demonstration
- The choice of materials should be determined with some certainty and materials and colors need to be shown as they will be deployed
- Proposed landscaping needs to be presented with more completeness and detail
- The applicant needs to revisit the relationship of the parts to the whole, in particular the relationship between the commercial base and the upper, residential elements; the Board suggested a difficulty in perceiving the unity in the upper massing and choices in architectural detail
- Clarify the character to be achieved with the upper windows and the particulars of shadow lines, surrounds and sills; at the commercial level strengthen the articulation of the storefront windows
- Explore pushing the entry doors of the commercial areas to the street along E. Union

The Board requested an increase in the number and quality of visual materials to be presented at the next meeting, with perspective drawings, sections and possibly models, especially to demonstrate the viability of the inner courtyard volumes

### **Development Standard Departures:**

At this meeting the applicant requested a specific departure from development standards within the Land Use Code, namely from SMC 23.47.024 B2 which requires open space provided on balconies and decks to have a minimum area of sixty (60) square feet and a minimum horizontal dimension of six (6) feet. The Board indicated it would entertain the granting of development-standard departures provided the final design successfully incorporates the design guidelines enumerated above.

### **Final Recommendation Meeting**

At a final Recommendation Meeting of the Design Review Board, held at Seattle Central Community College on August 11, 2004, and attended by all five members of the Design Review Board for Area 7, the applicant presented drawings, plans and samples of proposed materials which showed further refinement and development of the proposal. Two members of the public signed the sign-in sheet at the meeting.

### **BOARD DELIBERATIONS**

After hearing the presentation by the applicant and eliciting comments from the public present, the five members of the Board present expressed agreement that the structure proposed for the site had undergone design development in tune with the Early Design Guidance indicated by the Board and in keeping with the guidance that had been given at the earlier Recommendation meeting. One area of concern was the relatively blank west façade of the portion of the structure facing onto E. Union Street. The Board requested that the MUP plans be amended to provide a projecting bay or some other treatment to mitigate the blankness of this façade. The Board further indicated that they would provisionally grant a departure of upper level lot coverage should such be required by the addition of a projecting bay onto the façade.

## **DEVELOPMENT STANDARD DEPARTURES**

Certain departures from Land Use Code requirements may be permitted as part of the design review process. Departures may be allowed if an applicant demonstrates that a requested departure would result in a development which better meets the intent of the adopted design guidelines (see SMC 23.41.012). The Board unanimously agreed to grant the requested departure from development standards within the Land Use Code, namely from SMC 23.47.024 B2 which requires open space provided on balconies and decks to have a minimum area of sixty (60) square feet and a minimum horizontal dimension of six (6) feet. The Board further agreed to grant departures for the following to enable the design as approved to function in terms of the proposed subdivision of land: upper level lot coverage for mixed use development on the individual lots to exceed 64% (23.47.008D); access easement standards (23.53.025), and sight triangles (23.54.030G).

In recommending approval of the project, the Board indicated that it was their understanding that the exterior colors and materials for the built project would be within the range of materials and colors presented to the Board at the meeting. It was also understood that any substantial revision in height, bulk or scale, in façade appearances or materials, in architectural details or in landscaping concept, scope, or materials would have to be returned to the Board for their subsequent approval. Conformance of the final design to the substance of the conditions stated below could be certified by the Land Use Planner assigned to the project without returning to the Board for further approval.

## **DECISION - DESIGN REVIEW**

The Director of DPD has reviewed the recommendations of the five Design Review Board members present at the Design Review meeting and finds that they are consistent with the *City of Seattle Design Review Guidelines for Multifamily and Commercial Buildings*.

Therefore, the proposed design is **approved** as presented at the August 11, 2004, Design Review Board meeting; the requested development standard departures (23.47.024B, 23.47.008D, 23.53.025, and 23.54.030G) are also **approved, subject to the conditions below**.

## **ANALYSIS – SHORT SUBDIVISION**

### Proposal Description

As noted, this analysis and decision pertains to two Master Use Permit applications. Each application is related to development on the proposal site.

The applicant proposes to subdivide one parcel of land into five parcels of land under Master Use Permit Project Number 2304852. The proposed parcel sizes are: A) 671.1 sq. ft., B) 634.8 sq. ft., C) 800.3 sq. ft., D) 1065 sq. ft.; and E) 1,069.1 sq. ft.

### Public Comments

The initial public comment period for the proposed subdivision, Project Number 2304852, ended on August 27, 2003. No comments were received during this period relating to the platting action.

### **ANALYSIS - SHORT SUBDIVISION**

Pursuant to SMC 23.24.040, the Director shall, after conferring with appropriate officials, use the following criteria to determine whether to grant, condition, or deny a short plat. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Planning and Development, review from Seattle Public Utilities, Seattle Fire Department, Seattle City Light, and review by the Land Use Planner.

1. *Conformance to the applicable Land Use Code provisions.*

The lots created by the proposed subdivision will need to conform to all development standards of the NC2-40 zone, except for those departures from development standards as previously granted in the Design Review process. The lot configurations provide adequate buildable area to meet applicable density, setbacks, lot coverage requirements and other land use code development standards. Each new parcel will have direct pedestrian access to the street. Required residential parking will be accommodated on each individual lot.

2. *Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005;*

Each of the proposed parcels will have adequate access for vehicles, utilities and fire protection through use of an ingress, egress and utilities easements. Seattle City Light has reviewed and approved this application on November 23, 2003. Revisions to the configuration of the Short-plat since that time, however, will require review by, and possibly new easement language from, Seattle City Light, and approval is so conditioned (see below, Conditions—Short Subdivision). The Seattle Fire Department reviewed and approved this proposal on August 7, 2003

3. *Adequacy of drainage, water supply, and sanitary sewage disposal;*

There is an 8-inch public combined sewer (PS) located in E. Union Street as well as an 8-inch PS in 25<sup>th</sup> Avenue. Either is available for side-sewer connections. Stormwater detention, with controlled release to the PS, is likely to be required for construction. The method of drainage control and sanitary sewer discharge will be determined during the review of any building permit application(s) applicable for the proposed parcels.

Seattle Public Utilities reviewed the unit lot subdivision application and approved a Water Availability Certificate (No. 2003-0959) on August 29, 2003. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed subdivision is consistent with relevant NC2 zone land use policies and meets the minimum provisions of the Seattle Land Use Code. The proposal meets all applicable criteria for approval of a short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

There are no environmentally critical areas mapped or observed on the site.

6. *Is designed to maximize the retention of existing trees;*

The proposed subdivision in itself will not affect the expectation of future life of the existing trees on site or those adjacent the site. But since the proposed development on site may compromise the retention of existing trees, this issue was part of the Design Review Board's discussions and deliberations (see above) and is the subject of the SEPA analysis and conditioning of the overall proposal (see below). In response to concerns articulated by members of the public that the large big-leaf maple be retained on site, the Design Review Board agreed with the applicant that preservation of the tree and development on the site were incompatible because of the size of the tree, its location on the site and the requirements for providing a zone of non-disturbance to insure its continued health. The Board agreed that the applicant should provide landscaping elements within the open spaces included on site that genuinely enhanced the quality of their use and provide such landscaping at the edges of the site, especially along 25<sup>th</sup> Avenue, and within the public right-of-way so as to link the project and the streetscape and generally to enhance the adjoining public realm.

Apropos this requirement are the comments of the City Arborist: *"The street trees on 25<sup>th</sup> and on Union are SDOT maintained.... There is the opportunity to plant one Autumn Blaze maple (Acer x freemanii 'Jefferson red') on E. Union to replace the existing dead tree, and one Red Oak (Quercus rubra) on 25<sup>th</sup>. Removal of the existing red oak for access to the site would require SDOT approval and compensation to the City."*

The Bigleaf maple on site is not an "Exceptional Tree" as defined in SMC 25.11. But since the Bigleaf maple on site measures greater than 24 inches in diameter at four and one half feet above the ground, it is subject to the following Land Use Code provisions (SMC 25.11.090A):

*Each...tree over two (2) feet in diameter that is removed in association with development in all zones shall be replaced by one or more new trees, the size and species of which shall be determined by the Director [of DPD]; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is at least equal to the canopy cover prior to tree removal. Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.*

The Director has determined that replacement of the dead Autumn Blaze maple adjacent the site in the right-of-way along E. Union Street and the addition of a Red Oak in the right-of-way along 25<sup>th</sup> Avenue will fulfill the requirements of SMC 25.11.090A.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

The proposal is for a short-subdivision, not for a Unit-lot Subdivision that would meet the provisions of Section 23.24.045 of the Seattle Municipal Code.

### **DECISION - SHORT SUBDIVISION**

The proposed Short Subdivision is **CONDITIONALLY GRANTED (see Conditions -Short Subdivision below).**

### **ANALYSIS-SEPA**

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated 13 October 2003. The information in the checklist, project plans, and the experience of the lead agency with review of similar projects form the basis for this analysis and decision.

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states in part: "where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" (subject to some limitations). Under certain limitations/circumstances (SMC 25.05.665 D 1-

7) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate.

### Short-term Impacts

The following temporary or construction-related impacts are expected: decreased air quality due to suspended particulates from construction activities and hydrocarbon emissions from construction vehicles and equipment; increased dust caused by demolition of the existing roof; increased traffic and demand for parking from construction materials hauling, equipment and personnel; increased noise; and consumption of renewable and non-renewable resources.

### Air Quality Impacts

Construction traffic and equipment are likely to produce carbon monoxide and other exhaust fumes. Construction will create dust, leading to an increase in the level of suspended air particulates, which could be carried by wind out of the construction area. Compliance with the Street Use Ordinance (SMC 15.22.060) will require the contractors to water the site or use other dust palliative, as necessary, to reduce airborne dust. Other potential sources of dust would be soil blowing from uncovered dump trucks and soil carried out of the construction area by vehicle frames and tires; this soil could be deposited on adjacent streets and become airborne. The Street Use Ordinance also requires the use of tarps to cover the excavation material while in transit, and the clean up of adjacent roadways and sidewalks periodically. The Stormwater, Grading and Drainage Control Code requires that soil erosion control techniques be initiated for the duration of construction. Thus, adopted codes and/or ordinances provide mitigation for the identified impacts.

### Noise-Related Impacts

Commercial and office uses in the vicinity of the proposal will experience increased noise impacts during the different phases of construction (demolition, shoring, excavation). Compliance with the Noise Ordinance (SMC 22.08) is required and will limit the use of loud equipment registering 60 dBA or more at the receiving property line or 50 feet to the hours between 7:00 a.m. and 10:00 p.m. on weekdays, and between 9:00 a.m. and 10:00 p.m. on weekends and holidays.

Although compliance with the Noise Ordinance is required, due to the presence of some nearby residential uses, additional measures to mitigate the anticipated noise impacts may be necessary. The SEPA Policies at SMC 25.05.675.B and 25.05.665 allow the Director to require additional mitigating measures to further address adverse noise impacts during construction. Pursuant to these policies, it is Department's conclusion that limiting hours of construction beyond the requirements of the Noise Ordinance is necessary. Therefore, as a condition of approval, the proponent will be required normally to limit the hours of construction activity not conducted entirely within an enclosed structure to non-holiday weekdays between 7:00 a.m. and 6:00 p.m. and on Saturdays between 9:00 a.m. and 6:00 p.m. (Work would not be permitted on the following holidays: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day; if the contractor chooses to work on the following holidays in the City of Seattle calendar, they should be treated as Saturdays, with work restricted to the hours of 9:00AM to 6:00 PM: Martin Luther King, Jr. Birthday, Presidents' Day, Veterans' Day.)

### Long-Term Impacts — Use-Related Impacts

#### Land Use

The proposed project, with its retail frontages and entries along sidewalks, at-grade retail uses, with residential apartments above is consistent with the existing zoning and the City of Seattle Comprehensive Plan (1994).

### Traffic

Over the long-term, vehicular and pedestrian traffic will increase only slightly as a result of this proposal. Demand upon general area transportation systems, including transit, may also increase, but, again, insignificantly. No mitigation due to traffic impacts is proposed or warranted.

### Parking

Five parking spaces for the residential uses will be provided within the structure and will be accessed through a curbcut proposed on 25<sup>th</sup> Avenue. Although the general retail household sales and service uses provided in the five at grade commercial spaces may create an occasional demand for on-street parking, the on-street parking supply in the area would appear adequate for this intermittent demand and no further mitigation is warranted.

### Plants

It is the City's policy to preserve and enhance the City's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees (SMC 25.11.010), and to encourage the retention of existing trees through the Design Review and other processes. Neighbors to the proposal raised the issue of the retention of the large, big-leaf maple in comments to DPD and at the Design Review meetings. But since the proposed development on site may compromise the retention of existing trees, this issue was part of the Design Review Board's discussions and deliberations (see above) and is the subject of the SEPA analysis and conditioning of the overall proposal (see below). In response to concerns articulated by members of the public that the large big-leaf maple be retained on site, the Design Review Board agreed with the applicant that preservation of the tree and development on the site were incompatible because of the size of the tree, its location on the site and the requirements for providing a zone of non-disturbance to insure its continued health. The Board agreed that the applicant should provide landscaping elements within the open spaces included on site that genuinely enhanced the quality of their use and provide such landscaping at the edges of the site, especially along 25<sup>th</sup> Avenue, and within the public right-of-way so as to link the project and the streetscape and generally to enhance the adjoining public realm.

The Bigleaf maple on site is not an "Exceptional Tree" as defined in SMC 25.11. But since the Bigleaf maple on site measures greater than 24 inches in diameter at four and one half feet above the ground, it is subject to the following Land Use Code provisions (SMC 25.11.090A):

*Each...tree over two (2) feet in diameter that is removed in association with development in all zones shall be replaced by one or more new trees, the size and species of which shall be determined by the Director [of DPD]; the tree replacement required shall be designed to result, upon maturity, in a canopy cover that is at least equal to the canopy cover prior to tree removal. Preference shall be given to on-site replacement. When on-site replacement cannot be achieved, or is not appropriate as determined by the Director, preference for off-site replacement shall be on public property.*

Apropos this requirement, the City Arborist has indicated there is an opportunity to plant one Autumn Blaze maple (*acer x freemani*'Jefferson red') on E. Union to replace an existing dead tree, and one Red Oak (*quercus rubra*) on 25<sup>th</sup>. Together with providing for on site landscaping per plans recommended for approval by the Design Review Board, the Director has determined that the planting



of these two street trees will fulfill the tree replacement and site restoration requirement of SMC 25.11.090, and no further mitigation is required.

Other long-term or use-related impacts associated with approval of this proposal include increased bulk and scale on the site; increased ambient noise due to increased human activity; increased demand on public services and utilities; increased light and glare; increased energy consumption, increased on-street parking demand, and increased vehicle traffic. Identified long-term impacts are not considered significant because they are within the scope of those impacts anticipated by the zoning and/or are relatively the minor in scope. Bulk and scale of the project has been addressed by the Design Review process. The proposed residential and commercial uses are consistent with the current zoning and compatible with the surrounding retail, commercial and residential uses. Compliance with all applicable codes and ordinances is adequate to achieve sufficient mitigation of long term impacts and no further conditioning is warranted by SEPA policies.

### **DECISION - SEPA**

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirements of the State Environmental Policy Act (RCW 43.21C), including the requirement to inform the public agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.
- [ ] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

DPD finds that proposed development including mitigation measures proposed by the applicant or imposed as conditions of the Master Use Permit would be reasonably compatible with existing land uses and the City's land use and environmental policies, and should be **conditionally approved**.

### **CONDITIONS-SEPA**

#### **During Construction**

The following condition(s) to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

1. The applicant shall be required to limit periods of construction to between the hours of 7:00 a.m. and 6:00 p.m. on non-holiday weekdays and to 9:00 a.m. to 6:00 p.m. on non-holiday Saturdays. The no-work holidays are the following: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The following holidays in the City of Seattle

calendar shall be treated as Saturdays, should the contractor choose to perform construction-related activities on these days: Martin Luther King, Jr. Birthday, Presidents' Day, and Veterans' Day. Activities which will not generate sound audible at the property line such as work within enclosed areas, or which do not generate significant levels of sound, such as office or security functions, are not subject to this restriction.

2. The sidewalk adjacent the project site and running along the E. Union Street right-of-way shall be kept open and made safely passable throughout the construction period. Should a determination be made by the Seattle Department of Transportation (SDOT) that closure of this sidewalk is temporarily permissible because necessary for demolition, shoring, structural modification or other purposes, that determination will supersede this condition.

### **NON-APPEALABLE CONDITIONS - DESIGN REVIEW**

#### **Prior to Issuance of Master Use Permit**

1. Update plan sets to reflect details of plans as presented at the August 11, 2004 Design Review meeting and to include a bay projection along the west façade.
2. Update plan sets to incorporate changes and additions contained in the Correction Notice dated March 2, 2005.

#### **Prior to Certificate of Occupancy**

3. Construct a building with design, siting, façade materials and architectural details substantially the same as those presented within the plans submitted at the August 4, 2004 Design Review Board meeting and as revised per recommendations of the Board at that meeting.

### **CONDITIONS – SHORT SUBDIVISION**

#### **Prior to Recording**

The owners(s) and/or responsible party(s) shall:

1. Have final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each parcel, lot, or tract created by the short subdivision shall be surveyed in accordance with appropriate State statutes. The property corners set shall be identified on the plat and encroachments such as side yards easements, fences or structures shall be shown.
2. Show all existing and proposed easements for utilities on the short plat map. Add the legal descriptions of the easements to the parcels it is together with and/or subject to.
3. Submit final recording forms for approval and any necessary fees.
4. At application for construction permits, include a recorded copy of this short subdivision.

5. At the completion of on-site construction, a Washington State licensed surveyor shall make the determination whether the as-built conditions conform to the recorded plat or whether a revision to the plat is necessary to reflect the as-built condition. If deemed necessary, revised final recording forms will be submitted for approval, together with any necessary fees.

Signature: \_\_\_\_\_ (signature on file) Date: March 7, 2005

Michael Dorcy, Land Use Planner  
Department of Planning and Development  
Land Use Services

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